

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

PEGGY L. WEAVER,)
)
Plaintiff,)
)
v.) No.: 3:11-CV-281
) (VARLAN/SHIRLEY)
MICHAEL J. ASTRUE,)
Commissioner of Social Security,)
)
Defendant.)

ORDER

This Social Security appeal is before the Court on the Report and Recommendation entered by United States Magistrate Judge C. Clifford Shirley, Jr., on April 23, 2012 [Doc. 18]. There have been no timely objections to the Report and Recommendation and enough time has passed since the filing of the Report and Recommendation to treat any objections as having been waived. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). In the Report and Recommendation, the magistrate judge recommends that the plaintiff's motion for summary judgment [Doc. 14] be granted and that the Commissioner's motion for summary judgment [Doc. 16] be denied. The magistrate judge further recommends that the case be remanded to the Commissioner for further consideration of Dr. Whitley's opinion and plaintiff's complaints of pain, consistent with the Report and Recommendation.

The Court has carefully reviewed this matter, including the underlying motions and the complaint and the Court is in agreement with the magistrate judge's recommendations, which the Court adopts and incorporates into its ruling. Accordingly, the Court **ACCEPTS**

IN WHOLE the Report and Recommendation [Doc. 18], and it is **ORDERED** that plaintiff's Motion for Summary Judgment [Doc. 14] is **GRANTED** and the Commissioner's Motion for Summary Judgment [Doc. 16] is **DENIED**. The Commissioner's decision in this case denying plaintiff's application for disability insurance benefits is **REVERSED** and this case is **REMANDED** to the ALJ for further consideration of Dr. Whitley's opinion and plaintiff's complaints of pain, consistent with this order and the magistrate judge's Report and Recommendation.

IT IS SO ORDERED.

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE

ENTERED AS A JUDGMENT

s/ Debra C. Poplin
CLERK OF COURT